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No. 86-1722

In The

Supreme Court of the United States

October Term, 1986

HEUBLEIN, INC., a Connecticut corporation,

Appellant,

v.

STATE OF GEORGIA, JOE FRANK HARRIS, individually and as Governor of the State of Georgia, MARCUS E. COLLINS, individually and as Georgia State Revenue Commissioner, and CLAUDE L. VICKERS, individually and as Director of the Fiscal Division of the Department of Administrative Services,

Appellees.

On Appeal from the Supreme Court of Georgia

MOTION TO DISMISS OR AFFIRM

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QUESTIONS PRESENTED

1. Whether the questions presented by the Appellant are in fact substantial where Appellant developed no factual record upon which to base its attack on the General Assembly's stated purpose in enacting Georgia's import tax on alcoholic beverages, and where Appellant expressly waived any challenge to such stated purpose in the courts below?
2. Whether the State of Georgia may constitutionally impose a tax on the importation of alcoholic beverages where the unchallenged purpose of the tax implicates central concerns of the Twenty-first Amendment?

PARTIES

Appellees concur in the list of parties presented by Appellant.

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STATE OF GEORGIA, JOE FRANK HARRIS, individually and as Governor of the State of Georgia, MARCUS E. COLLINS, individually and as Georgia State Revenue Commissioner, and CLAUDE L. VICKERS, individually and as Director of the Fiscal Division of the Department of Administrative Services,

Appellees.

On Appeal from the Supreme Court of Georgia

MOTION TO DISMISS OR AFFIRM

Appellees in the above-styled case respectfully move, pursuant to Rule 16.1(b) of the United States Supreme Court, that this Court dismiss this appeal for want of a substantial question, or that it affirm the Georgia Supreme Court without further argument.

CITATIONS TO OPINIONS BELOW

The opinion of the Supreme Court of Georgia is officially reported at 256 Ga. 578 (1987), and is unofficially

reported at 351 S.E.2d 190 (1987). The text of the opinion is contained in the Appendix to Appellant's Jurisdictional Statement at page A-1.

The decisions and orders of the Superior Court of Fulton County, Georgia are not reported. The texts of these decisions and orders are contained in the Appendix to Appellant's Jurisdictional Statement at pages A-12, A-16, and A-23.

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STATEMENT OF JURISDICTION

Appellees concur in the Statement of Jurisdiction presented by Appellant.

———o———

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Appellees concur in Appellant's enumeration of the Constitutional Provisions and Statutes Involved.

———o———

STATEMENT OF THE CASE

On April 1, 1985, the General Assembly of Georgia amended Official Code of Georgia Annotated §§ 3-4-60 and 3-6-50 so as to change the taxation of alcoholic beverages sold within the State of Georgia. Under the new system, all distilled spirits and wines are subject to an alcohol excise tax. All imported distilled spirits and wines,

whether imported by in-state or out-of-state producers or manufacturers, are subject to an additional import tax. The caption of House Bill 564, which enacted the new system, stated that the legislature's purpose was to "provide for the increased cost of administration and collection of revenues; to aid in the exercise of the police power; [and] to promote temperance." Appellant's Jurisdictional Statement, p. A-35, -36. In addition to this general statement of purpose, Section 1 of the bill contained express legislative findings specifically addressed to central concerns of the Twenty-first Amendment:

> The General Assembly finds and determines that the cost of regulating and administering the manufacture, distribution, and sale of alcohol, distilled spirits, table wines, and dessert wines consumed in this state is greater for imported alcohol, distilled spirits, table wines, and dessert wines than it is for alcohol, distilled spirits, table wines, and dessert wines produced within this state and further finds and determines that it is in the best interest of the citizens of this state that the increased costs be provided for by taxation.

Appellant's Jurisdictional Statement, p. A-36.

On April 29, 1985, Heublein, Inc., a Connecticut corporation and a producer and importer of alcoholic beverages, brought an action for declaratory and injunctive relief in the Superior Court of Fulton County, Georgia. In its complaint, Heublein challenged the State of Georgia's authority to impose an import tax on alcoholic beverages under any circumstances and sought a judicial declaration that the import taxes in question violated the Commerce Clause, the Equal Protection Clause, and the Privileges and Immunities Clause of the United States Constitution.

In addition, Heublein requested a preliminary injunction against the assessment and collection of the import taxes during the pendency of the litigation. On May 12, 1985, the superior court denied Heublein's motion for a preliminary injunction because Heublein failed to establish that it would suffer irreparable harm if the assessment and collection of the taxes were not enjoined.

On September 20, 1985, the superior court heard Heublein's Motion for Declaratory Judgment. At that time, Heublein argued the grounds upon which it claimed that the Georgia statutes were unconstitutional. Throughout oral argument, Heublein made clear its position that a state could *under no circumstances* enact a tax on alcoholic beverages which had the effect of discriminating against out-of-state manufacturers. When asked by the trial judge about the Georgia General Assembly's stated purpose in enacting the legislation, Heublein stated that:

> [t]hose unsubstantiated statements have absolutely no merit to them anymore, ever since *Bacchus* came down and set the ground work. *Bacchus* said as a matter of law you don't have to go any further. This is a *per se* illegal enactment. You cannot justify it under any circumstances, that is what [the *Bacchus* Court] said, when you are looking at something that discriminates.

Transcript, September 20, 1985, p. 7. Heublein later reiterated:

> Your Honor, let me make our position perfectly clear. We are not questioning the State's purpose here . . . we are not sitting here and challenging what the State says their purpose was in adopting this legislation. This is not a factual case. What we are saying is

> whatever you feel your reason was, it doesn't fly in light of the Commerce Clause.

Id. at 31-32. Finally, in an attempt to explain its failure to produce any facts or evidence contrary to the General Assembly's stated purpose in enacting the statutes, Heublein concluded by stating:

> Your Honor, everything you need in this case is before you. We are dealing with a facial challenge to a statute, which we contend is *per se* illegal. There are no facts to be determined. Everything you need is in front of you, Your Honor, to rule on our motion for declaratory judgment. We are not taking issue with the purpose that is being advanced by the State. We are just simply stating consistent with all of the known law that it just falls when you consider the competing Federal interest here, which says we will not tolerate this type of economic protectionism.

Id. at 34 (emphasis added).

On September 23, 1985, the superior court rendered its judgment on the constitutional issues as framed by Heublein. At the outset of its opinion, the court pointed out that "[p]laintiff, Heublein, Inc., challenges the authority of the State of Georgia to impose the import tax *under any circumstances* . . . ." Appellant's Jurisdictional Statement at A-16 (emphasis added). The court then examined this Court's interpretation of the Twenty-first Amendment as it relates to a state's power to regulate the importation of alcoholic beverages. Relying primarily upon *Bacchus Imports, Ltd. v. Dias*, 468 U.S. 263 (1984), the superior court held that the purpose set out by the General Assembly in enacting Georgia's statutes, i.e., taxing imported alcoholic beverages so as to defray the increased

costs of regulating such beverages, sufficiently implicated principles underlying the Twenty-first Amendment so as to outweigh Commerce Clause considerations and withstand Heublein's equal protection attack. Appellant's Jurisdictional Statement at A-20, -21.

After noting that Heublein, at the superior court level, had expressly renounced any challenge to the General Assembly's purpose in enacting the import tax, and after observing that Heublein, at the appellate court level, continued to assert that the legislature's purpose was irrelevant to Heublein's constitutional arguments, the Georgia Supreme Court disagreed with Heublein's contention that Georgia's import tax "doesn't fly in light of the Commerce Clause" notwithstanding the clear Twenty-first Amendment purposes underlying the legislation. *Heublein, Inc. v. State of Georgia,* 256 Ga. 578, 584, 351 S.E.2d 190, 196 (1987). Instead, the Court determined that a balancing between federal and state interests must be undertaken, and that the only relevant inquiry properly before it was "whether the principles underlying the Twenty-first Amendment [were] sufficiently implicated ... to outweigh the Commerce Clause principles that would otherwise be offended." *Id., quoting Bacchus Imports, Ltd. v. Dias,* 468 U.S. 263, 275 (1984). Holding that "the unchallenged purpose of the import tax implicates central concerns of the Twenty-first Amendment, i.e., defraying the increased costs of regulating the importation into this State of intoxicating liquors," 256 Ga. at 584-85, 351 S.E.2d at 196, the Georgia Supreme Court upheld the statutes as against Heublein's Commerce Clause challenge. *Id.* The Georgia Supreme Court then noted that state regulation of alcoholic beverages that incidentally infringes upon purely economic interests traditionally merits only the mildest review under the Fourteenth Amendment, that

Georgia's import tax was rationally related to the accomplishment of the legitimate state objective of regulating the importation of intoxicating liquor into the state, and that Heublein's equal protection claim was therefore without merit. *Id.*

———o———

THE QUESTIONS PRESENTED ARE NOT SUBSTANTIAL

I. The questions presented by the Appellant are not substantial where Appellant developed no factual record upon which to base its attack on the General Assembly's stated purpose in enacting Georgia's import tax on alcoholic beverages, and where Appellant expressly waived any challenge to such stated purpose in the courts below.

Questions involving the limits of the states' authority under the Twenty-first Amendment to regulate alcoholic beverages are generally important ones. Because such questions are usually important, however, and because there is no "bright line between federal and state powers over liquor," *California Retail Liquor Dealers Ass'n v. Midcal Aluminum*, 445 U.S. 97, 110 (1980), this Court should regard as substantial only those questions which have been adequately, clearly, and properly raised below.

It is clear from the Appellant's statement of the "Questions Presented" that the Appellant's arguments are now principally directed toward the legislative purpose asserted by the Georgia General Assembly in support of the challenged statutes, and that the Appellant's contention of unconstitutionality rests primarily upon its assertion now that it "presented convincing evidence that

[the General Assembly's stated purposes] were pretextual and could not possibly be served by the legislation . . . ." Appellant's Jurisdictional Statement, p. 11. The record quite clearly reflects, however, that Heublein presented no factual evidence whatsoever concerning the General Assembly's stated purposes. Heublein, in fact, expressly waived any challenge to the legislative purpose in the lower courts. A party may lose its right to raise factual issues before this Court when it has made contrary assertions in the courts below. *Steagald v. United States,* 451 U.S. 204, 209 (1981). Heublein repeatedly asserted at oral argument before the superior court that "[w]e are not questioning the State's purpose here," "we are not sitting here and challenging what the State says their purpose was in adopting this legislation," and "[w]e are not taking issue with the purpose that is being advanced by the State." Transcript, September 20, 1985, pp. 31, 32 and 34.[1]

This Court has also declined, except in unusual situations, to search for the "real" motive behind a legislature's express purposes when adjudicating constitutional challenges to state statutes. In *Minnesota v. Clover Leaf Creamery Co.,* 449 U.S. 456 (1981), the Court stated that

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[1]Appellant now attempts to recast the statements it made before the superior court. Appellant's Brief, p. 14 n. 2. An examination of the September 20, 1985 transcript, however, reveals that the Appellant made such statements because it recognized that it had proven no facts which would authorize the superior court to conclude that the legislature's statement of purpose was anything but legitimate. Regardless of the Appellant's motivation in making its statements before the superior court, those statements clearly constituted a waiver of the arguments Appellant now seeks to assert regarding the General Assembly's motives.

it would "assume that the objectives articulated by the legislature are actual purposes of the statute, unless an examination of the circumstances forces us to conclude that they 'could not have been a goal of the legislation.' " 449 U.S. at 463 n.7, *quoting Weinberger v. Wiesenfeld,* 420 U.S. 636, 648 n.16 (1975). This Court also affords great weight to the views of the highest court of a state with regard to state law matters, and it customarily accepts the factual findings of such courts in the absence of exceptional circumstances. *324 Liquor Corp. v. Duffy,* 107 S. Ct. 720 (1987); *California Retail Liquor Dealers Ass'n v. Midcal Aluminum,* 445 U.S. 97 (1980). The Georgia Supreme Court specifically based its decision on the superior court's finding that the unchallenged purpose of the Georgia statute—i.e., defraying the increased costs of regulating the importation of intoxicating liquors into Georgia —implicated central concerns of the Twenty-first Amendment. 256 Ga. at 584-85, 351 S.E.2d at 196. In the absence of exceptional circumstances, both the Georgia Supreme Court's findings with respect to the General Assembly's purpose in enacting Georgia's import tax and the legislature's statement of purpose itself are to be given great weight. In light of this, Heublein's failure to develop a record supporting its present contention that the General Assembly's stated purposes were mere pretexts, and Heublein's express waiver in the lower courts of any question regarding legislative purposes, make the questions now presented by Heublein so insubstantial as to warrant no further review.

II. The State of Georgia may constitutionally impose a tax on the importation of alcoholic beverages where the unchallenged purpose of the tax implicates central concerns of the Twenty-first Amendment.

A. The states' power to regulate the importation of alcoholic beverages has been specifically reserved to the states by the Twenty-first Amendment and outweighs the general Commerce Clause principles relied upon by the Appellant in this case.

Appellant's Commerce Clause challenge to the Georgia import tax gives little or no consideration to the powers granted the states by the Twenty-first Amendment. Indeed, the State has never attempted to deny that, but for the Twenty-first Amendment, Georgia's statutes would violate the Commerce Clause. The State's position has always been that, in the context of this case, the Twenty-first Amendment saves the statutes that would otherwise be unconstitutional under a pure Commerce Clause analysis. Specifically, the State has argued, and the Georgia courts have held, that Georgia's import tax implicates central concerns of the Twenty-first Amendment and is consistent with the most recent decisions of this Court regarding the states' authority to regulate intoxicating liquors. *Heublein*, 256 Ga. at 584-85, 351 S.E.2d at 196.

Any discussion of the states' authority to regulate alcoholic beverages must begin with a discussion of the Twenty-first Amendment. *Seagrams & Sons v. Hostetter*, 384 U.S. 35, 41 (1966). The Twenty-first Amendment was ratified on December 5, 1933, and provides in Section 2 that "[t]he transportation or importation into any state, territory, or possession of the United States for delivery

therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited." U.S. Const., amend. XXI, § 2. The authority thus granted to the states "logically entails considerable regulatory power not strictly limited to importing and transporting alcohol." *California Liquor Dealers Ass'n v. Midcal Aluminum*, 445 U.S. 97, 107 (1979), *quoting Ziffrin, Inc. v. Reeves*, 308 U.S. 132, 138 (1939). This "considerable regulatory power" has been interpreted as being quite broad, and for more than a quarter century this Court has held that states must be afforded wide latitude in their choice of means to accomplish permissible ends under the Twenty-first Amendment. *California v. LaRue*, 409 U.S. 109, 116 (1972), *citing Seagrams & Sons v. Hostetter*, 384 U.S. 35, 48 (1966); *Hostetter v. Idlewild Bon Voyage Liquor Corp.*, 377 U.S. 324, 330 (1964); *State Board of Equalization v. Young's Market Co.*, 299 U.S. 59 (1936).

The Court's first interpretation of the scope of the Twenty-first Amendment arose in a case quite similar to this one. In *State Board of Equalization v. Young's Market Co.*, 299 U.S. 59 (1936), the Court considered a Commerce Clause challenge to a California license tax on the privilege of importing beer into the state. In rejecting the constitutional attack, the Court recognized that the right to import without restriction had been "abrogated . . . so far as concerns intoxicating liquors" by the Twenty-first Amendment. *Id.* at 62. More importantly, the Court held that "in the light of history, we cannot say that the imposition of a high license fee for importation may not, like the imposition of the high license fee exacted for the privilege of selling at retail, serve as an aid in policing the liquor traffic." *Id.* at 63. Although later decisions

by this Court have qualified the holding in *Young's Market, see, e.g., Hostetter v. Idlewild Bon Voyage Liquor Corp.,* 377 U.S. 324, 330-32 (1964), no decision has held that Twenty-first Amendment considerations *never* take precedence over Commerce Clause restrictions, as Appellant incorrectly urges.

Appellant's argument ignores the historical significance of the Twenty-first Amendment, and is founded almost entirely on the holding of a sharply-divided Court in the case of *Bacchus Imports, Ltd. v. Dias,* 468 U.S. 263 (1984). Appellant's broad reading of *Bacchus,* however, is misguided. Although Appellant attempts to liken Georgia's import tax to the tax struck down by this Court in *Bacchus,* it is clear that the taxes are dissimilar in all pertinent respects. The Hawaiian statute in *Bacchus* exempted two local products entirely from the excise tax imposed on all other alcoholic beverages, whether imported or not. 468 U.S. at 265. No tax was imposed on the importing of alcoholic beverages. In fact, the State of Hawaii did not even raise a Twenty-first Amendment issue until the case had reached the Supreme Court. *Id.* at 274 n.12. Instead, the State of Hawaii defended its statutes in the courts below on Commerce Clause grounds, attempting to show that the discrimination in favor of local products was slight and that promoting local industry was a valid legislative purpose. *Id.* at 270.

Hawaii's focus on the Commerce Clause, to the exclusion almost entirely of the Twenty-first Amendment, can be readily understood; the Hawaiian legislature's express purpose in granting the exemption was to promote local industry. The *Bacchus* Court therefore noted, "we

need not guess at the legislature's motivation, for it is undisputed that the purpose of the exemption was to aid Hawaiian industry." 468 U.S. at 271. The Court then held that "state laws that constitute mere economic protectionism are not entitled to the same deference as laws enacted to combat the perceived evils of an unrestricted traffic in liquor. Here, the state does not seek to justify its tax on the ground that it was designed to promote temperance or to carry out any other purpose of the Twenty-first Amendment, but instead acknowledges that the purpose was 'to promote a local industry.'" *Id.* at 276. By implication, the *Bacchus* majority acknowledged that a taxing statute otherwise violative of the Commerce Clause can be constitutional where it fulfills a legitimate Twenty-first Amendment purpose.

The Georgia legislation presently under attack, in contrast to the Hawaiian statute struck down in *Bacchus,* specifically addresses concerns central to the Twenty-first Amendment. With the General Assembly's statement of purpose and legislative findings before it, the trial court held that "the State of Georgia does 'seek to justify its tax on the ground that it was designed to promote temperance or to carry out any other purpose of the Twenty-first Amendment,' 52 U.S.L.W. at 4983, and that the legislative findings contained in the Act evince a 'clear concern of the Twenty-first Amendment.' *Id.*" Appellant's Jurisdictional Statement, p. A-19. The trial court also recognized that "it is axiomatic that a state may better police, regulate and control alcoholic beverages produced within its borders than that which is imported from other states, and that a cost differential exists with regard to the control and administration of the vast quantities of alcoholic

beverages imported into this State." Appellant's Jurisdictional Statement, p. A-19. These findings by the trial court were specifically upheld by the Georgia Supreme Court. *Heublein*, 256 Ga. at 584, 351 S.E.2d at 196.

Nevertheless, Appellant relies on *Bacchus* as imposing a major limitation upon a states' right under the Twenty-first Amendment to pass laws affecting the importation of alcohol for delivery or use within its borders. Appellant's position is simply wrong. In *Department of Revenue v. James Beam Co.*, 377 U.S. 341 (1964), this Court reiterated its earlier observation in *Hostetter v. Idlewild Bon Voyage Liquor Corp.*, 377 U.S. 324, 330 (1964), that "[t]his court made clear in the earlier years following the adoption of the Twenty-first Amendment that by virtue of its provisions a state is wholly unconfined by *traditional* Commerce Clause limitations when it restricts the importation of intoxicants destined for use, distribution, or consumption within its borders." 377 U.S. at 344 (emphasis added). *See also Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 681, 712 (1984), *quoting Craig v. Boren*, 429 U.S. 190, 206 (1976) ("[t]his court's decisions have . . . confirmed that the amendment primarily created an exception to the *normal* operation of the Commerce Clause") (emphasis added).

Furthermore, the *Bacchus* Court, in direct contrast to the "strict rule of invalidity" which Appellant asserts here, reiterated that "both the Twenty-first Amendment and the Commerce Clause are parts of the same constitu-

tion and each must be considered in light of the other and in the context of the issues and interests at stake in any concrete case." *Bacchus,* 468 U.S. at 275, *quoting Hostetter v. Idlewild Bon Voyage Liquor Corp.,* 377 U.S. 324, 331-32 (1964).

Relying upon the precedents cited above, the Georgia Supreme Court held that "the question for decision in a case in which a liquor law within the ambit of the Twenty-first Amendment is challenged as violating the Commerce Clause is 'whether the principles underlying the Twenty-first Amendment are sufficiently implicated . . . to outweigh the Commerce Clause principles that would otherwise be offended.' " *Heublein,* 256 Ga. at 584, 351 S.E.2d at 196, *quoting Bacchus Imports, Ltd. v. Dias,* 468 U.S. at 275. The Georgia Supreme Court did not hold, as Appellant contends, that the General Assembly could "pass any law concerning alcoholic beverages no matter how repugnant to other basic constitutional principles." Appellant's Jurisdictional Statement, p. 11. Rather, the court held that a state's interest in offsetting, by taxation, the increased cost of regulating imported alcoholic beverages sufficiently implicates the Twenty-first Amendment so that there is no impermissible violation of the Commerce Clause. Placing a state tax on imported alcoholic beverages to defray the increased costs incurred by the state in regulating such beverages so clearly advances a legitimate Twenty-first Amendment concern that Appellant's attack on the Georgia statutes does not present a substantial question.

B. Since state regulation of alcoholic beverages that incidentally infringes upon purely economic interests merits only the "mildest review" under the Fourteenth Amendment, the Twenty-first Amendment concerns implicated by the challenged legislation provide a sufficient rational basis for sustaining Georgia's import tax against the Appellant's equal protection attack.

The grounds upon which Appellant argues that O.C.G.A. §§ 3-4-60 and 3-6-50 violate the Equal Protection Clause are no more substantial than those upon which Appellant bases its Commerce Clause claim. Appellant cites no equal protection case in which this Court has invalidated a state statute concerning the Twenty-first Amendment and the importation of alcoholic beverages. *Metropolitan Life Insurance Co. v. Ward,* 470 U.S. 869 (1985), the case upon which Appellant principally relies, involved a state tax on out-of-state insurance companies which was enacted to raise revenue and promote in-state business. *Metropolitan Life,* however, in no way implicated the state's power under the Twenty-first Amendment.

Just as the Twenty-first Amendment permits states to take action with regard to the importation of alcoholic beverages which might otherwise violate the Commerce Clause, so too does it take precedence, under certain circumstances, over the Equal Protection Clause. In *Craig v. Boren,* 429 U.S. 190 (1976), the Court overturned a state statute which allowed females to drink alcoholic beverages at an earlier age than males. The Court reasoned that the gender-based discrimination before it, implicating individual rights, deserved heightened scrutiny and could not withstand such an equal protection analysis. In reach-

ing that decision, however, the Court distinguished situations involving state regulation of alcoholic beverages that incidentally infringes upon purely economic interests, recognizing that cases concerning "purely economic matters . . . traditionally merit only the mildest review under the Fourteenth Amendment." *Id.* at 207.

Because Georgia's import tax incidentally infringes upon economic interests only, the balance struck between the Twenty-first Amendment and the Equal Protection Clause tilts decidedly in favor of the former. As discussed previously, levying a tax on imported alcohol to pay for the increased costs of regulating imported alcohol clearly advances concerns implicated by the Twenty-first Amendment. In the trial court, Appellant waived any argument that this was not the purpose of the tax. As the Georgia Supreme Court correctly held, "the import tax is rationally related to the accomplishment of the legitimate State objective of regulating the importation into the State of intoxicating liquor." 256 Ga. at 585, 351 S.E.2d at 196. Appellant's equal protection claim, therefore, fails to raise a substantial federal question.

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CONCLUSION

A state may impose an import tax on alcoholic beverages imported into that state where the purpose of the tax implicates central concerns of the Twenty-first Amendment. In determining whether a law which would otherwise be invalid under a pure Commerce Clause analysis may nevertheless withstand such an attack by resort to the Twenty-first Amendment, the Court must engage in a "pragmatic effort to harmonize state and federal powers," *California Retail Liquor Dealers Ass'n v. Midcal Aluminum,* 445 U.S. at 109, and must "reconcile the interests protected by the two constitutional provisions." *Brown-Forman Distillers Corp. v. New York State Liquor Authority,* 106 S. Ct. 2080, 2087 (1986). The balancing test to be used in reconciling these interests, as most recently reaffirmed in *324 Liquor Corp. v. Duffy,* 107 S. Ct. 720, 727 (1987), is "whether the interests implicated by a state regulation are so closely related to the powers reserved by the Twenty-first Amendment that the regulation may prevail, notwithstanding that its requirements directly conflict with express federal policies." *Capitol Cities Cable, Inc. v. Crisp,* 467 U.S. 691, 714 (1984).

The unchallenged legislative purpose and findings of fact relating to the Georgia statutes in question, as well as the findings of the Georgia courts, evince a clear concern for, and implicate, the central powers reserved to the states by the Twenty-first Amendment. For this reason, Appellees respectfully request that this Court dismiss this appeal for want of a substantial question, or that it affirm the Georgia Supreme Court without further argument.

Respectfully submitted,

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